

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)	
)	
ROSE TREVINO,)	CASE NO. 08-20391 JPK
)	Chapter 13
Debtor.)	

ORDER DENYING MOTION TO MODIFY PLAN, POST MODIFICATION ("MOTION")

The Motion was filed on July 14, 2009. Although inelegantly titled, the Motion appears to request two forms of relief. First, the Motion seeks to modify the debtor's Chapter 13 plan in some manner which it does not designate. Secondly, the Motion seeks additional compensation for the debtor's attorney for preparing the Motion in the amount of \$1,000.00.

Let's turn first to that portion of the Motion which apparently seeks to modify the debtor's plan. Modification of confirmed Chapter 13 plans is governed by 11 U.S.C. § 1329. Sub-paragraph (a) of that statute provides that a plan may be modified subsequent to confirmation "upon request of the debtor". Any request submitted to the court for an order is governed by Fed.R.Bankr.P. 9013, which requires that the request be submitted by means of a written motion, and that the motion "shall state with particularity the grounds therefor, and shall set forth the relief or order sought". To the extent the Motion seeks a post-confirmation modification of the plan, the Motion states only that the debtor's "income has been reduced". The Motion itself does not state the specific reduction in payments to the Chapter 13 Trustee which it seeks. The purpose of Fed.R.Bankr.P. 9013 is to require a self-contained statement of grounds for requested relief, and not one which requires anyone reading the motion to search a record to determine what it might be that the motion seeks. The Motion concludes with the prayer for relief that the court enter "an Order modifying the Debtor's plan". From the face of the Motion, the court has no idea as to the nature of the modification requested. With respect to its attempt to seek relief under 11 U.S.C. § 1329, the Motion fails due to its non-compliance

with Fed.R.Bankr.P. 9013.

Let's turn next to the request for additional compensation which appears to have been attempted by paragraph 3 of the Motion. First, in terms of Fed.R.Bankr.P. 9013, the request for relief is directed solely to modification of the plan, and does not request the court to approve any additional compensation. Thus, there having been no request of the court with respect to additional compensation, the Motion does not seek that remedy. More importantly, the Motion fails entirely to comply with Fed.R.Bankr.P. 2016(a), and it must be denied for that reason apart from the prayer for relief requesting additional compensation.¹

The court also notes in passing that the Motion violates N.D.Ind.L.B.R. B-9013-1. A motion for additional compensation for the debtor's counsel, and a motion for post-confirmation modification of a Chapter 13 plan, implement processes of court review which are totally independent of each other. Combining those requests in one motion therefore does not seek "alternative relief" within the meaning of N.D.Ind.L.B.R. B-9013-1.

IT IS ORDERED that the Motion is denied, without prejudice to seeking subsequent relief in an appropriate manner.

Dated at Hammond, Indiana on August 20, 2009.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee

¹ The form of order tendered with the Motion did not address paragraph 3's recitation with respect to additional compensation.